Private Admonitions with Probation -- Board Case Nos. 10 and 19, 1994. Date of Sanction: June 29, 1995. The Delaware Supreme Court approved a report of the Board on Professional Responsibility ("the Board") relating to two disciplinary matters involving the Respondent, which had been consolidated by the Office of Disciplinary Counsel ("the ODC") into one Petition for Discipline. The Board recommended the imposition of a private admonition in each case, along with a two-year period of probation, with several conditions, as a result of the Respondent's violations of the Delaware Lawyers' Rules for Professional Conduct.

Board Case No. 10, 1995 involved the Respondent's failure to diligently represent a client in two separate cases. In the first case, the client obtained a judgment <u>pro se</u> in the Justice of the Peace course, then retained the Respondent when the other party filed a notice of appeal in the Superior Court. When the Respondent failed to file a complaint, the Superior Court entered judgment against the client. In the second case, the client advised the Respondent that one of the defendants had died and requested that the complaint be amended to seek recovery from that defendant's estate. The Respondent failed to act on the matter, such that the motion was ultimately denied. During these representations, the Respondent repeatedly failed to return calls from the client.

Board Case No. 19, 1995 involved the Respondent's representation of a person who desired to bring a products liability action in connection with a defective truck. Although the Respondent properly filed the lawsuit, the Respondent failed to properly prosecute the matter, resulting in its dismissal by the Superior Court under Civil Rule 41(e). During the time of the representation, the Respondent had also failed to adequately communicate with the client, and had failed to respond to the client's reasonable requests for information. After the Respondent's client filed a complaint with the ODC, the Respondent failed to respond to the ODC's continued requests for information about the matter.

At the hearing before the Board, the Respondent entered a conditional admission to several of the disciplinary charges, pursuant to Board Rule 18. The ODC agreed to the terms of the conditional admission, and to the Board's dismissal of the remaining charges. In Board Case No. 10, 1994, the Respondent admitted to having violated **DLRPC 1.1** (lack of competence), **DLRPC 1.3** (lack of diligence), and **DLRPC 1.4(a)** (failure to communicate with client). In Board Case No. 19, 1994, the Respondent admitted to having violated **DLRPC 1.1** (lack of competence), **DLRPC 1.3** (lack of diligence), **DLRPC 1.4(a)** (failure to communicate with client), and **DLRPC 8.4(d)** (engaging in conduct prejudicial to the administration of justice).

In addition to the imposition of two private admonitions, the Respondent was placed on a two-year probation, requiring the submission of written reports to the ODC, the supervision of any legal work done by the Respondent, the expedited treatment of any further disciplinary matter which might arise, the repayment of the client's court costs in Board Case No. 10, 1994, and the payment of the ODC's costs of investigation. Any violation of the terms of the Respondent's probation will also be grounds for the re-opening of both matters for further proceedings on a <u>de novo</u> basis.

Although the Respondent had previously received a private admonition, the mitigating factors in these cases were significant, including (a) the Respondent's severe personal and emotional problems, which appeared to have played a substantial part in much of the misconduct at issue, (b) the lack of any dishonest or selfish motive on the Respondent's part, (c) the Respondent's ultimate cooperation with the ODC, (d) the Respondent's inexperience in the practice of law, (e) the Respondent's rehabilitative efforts, (f) the Respondent's sincere remorse as to the misconduct, and (g) the Respondent's voluntary withdrawal from the active practice of law until further progress toward rehabilitation is made.